

STATE OF NEW YORK

5730

2019-2020 Regular Sessions

IN SENATE

May 13, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to reserve investments for certain insurers in exchange-traded funds

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsection (a) of section 1401 of the insurance law is
2 amended by adding a new paragraph 19 to read as follows:

3 (19) "Bond exchange-traded fund" means an exchange-traded fund regis-
4 tered under the federal Investment Company Act of 1940, as amended, that
5 has a principal investment strategy of investing primarily in bonds,
6 loans or other debt instruments.

7 § 2. Paragraph 10 of subsection (a) of section 1404 of the insurance
8 law, as added by chapter 324 of the laws of 1992, is amended to read as
9 follows:

10 (10) Investment companies. (A) Securities of any investment company
11 registered pursuant to the federal Investment Company Act of 1940, 15
12 U.S.C. § 802, as amended, including exchange-traded funds, if such
13 company:

14 (i) invests at least ninety percent of its assets in the types of
15 securities which qualify as a reserve investment pursuant to the
16 provisions of paragraph one, two or three of this subsection or which
17 invest in securities which are determined by the superintendent to be
18 substantively similar to the types of securities set forth in such para-
19 graphs; [~~or~~]

20 (ii) invests in bond exchange-traded funds, provided that such funds
21 have received a valid designation from the Securities Valuation Office
22 of the National Association of Insurance Commissioners such that it may
23 be filed on the statutory long-term bond obligation Schedule D-1 as
24 promulgated by the Securities Valuation Office; or

25 [~~(ii)~~] (iii) invests at least ninety percent of its assets in the
26 types of equity interests which qualify as a reserve investment pursuant
27 to the provisions of paragraph eight of this subsection.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (B) Investment limitations. Investments made by an insurer subject to
2 the provisions of paragraph two of subsection (a) or subsection (b) of
3 section one thousand four hundred three of this article shall not exceed
4 the following limitations:

5 (i) in any investment company qualifying under item (i) of subpara-
6 graph (A) hereof, ten percent of such insurer's admitted assets as shown
7 by its last statement on file with the superintendent and the aggregate
8 amount of investment in such qualifying investment companies shall not
9 exceed twenty-five percent of such insurer's admitted assets as shown by
10 its last statement on file with the superintendent and the cost of such
11 investments shall not be included when calculating the permissible
12 aggregate value of equity interests pursuant to the provisions of
13 subparagraph (B) of paragraph eight of this subsection; [~~and~~]

14 (ii) in any single bond exchange-traded fund under item (ii) of
15 subparagraph (A) hereof, fifteen percent of such insurer's admitted
16 assets as shown by its last statement on file with the superintendent
17 and the cost of such investments shall not be included when calculating
18 the permissible aggregate value of equity interests pursuant to the
19 provisions of subparagraph (B) of paragraph eight of this subsection;
20 and

21 [~~(ii)~~] (iii) in any investment company qualifying under item [~~(ii)~~]
22 (iii) of subparagraph (A) hereof, five percent of such insurer's admit-
23 ted assets as shown by its last statement on file with the superinten-
24 dent and the aggregate amount of investment in such qualifying invest-
25 ment companies shall be included when calculating the permissible
26 aggregate value of equity interests pursuant to the provisions of
27 subparagraph (B) of paragraph eight of this subsection.

28 § 3. Subsection (a) of section 1405 of the insurance law is amended by
29 adding a new paragraph 9 to read as follows:

30 (9) Investment companies. (A) Securities of any investment company
31 registered pursuant to the federal Investment Company Act of 1940, 15
32 U.S.C. § 802, as amended, including exchange-traded funds, if such
33 company:

34 (i) invests at least ninety percent of its assets in the types of
35 securities which qualify as a reserve investment pursuant to the
36 provisions of paragraph one, two or three of this subsection or which
37 invest in securities which are determined by the superintendent to be
38 substantively similar to the types of securities set forth in such para-
39 graphs;

40 (ii) invests in bond exchange-traded funds, provided that such funds
41 have received a valid designation from the Securities Valuation Office
42 of the National Association of Insurance Commissioners such that it may
43 be filed on the statutory long-term bond obligation Schedule D-1 as
44 promulgated by the Securities Valuation Office; or

45 (iii) invests at least ninety percent of its assets in the types of
46 equity interests which qualify as a reserve investment pursuant to the
47 provisions of paragraph eight of this subsection.

48 (B) Investments made pursuant to item (iii) of subparagraph (A) of
49 this paragraph shall be included when calculating the permissible aggre-
50 gate value of equity interests pursuant to this section. Investments
51 made pursuant to items (i) and (ii) of subparagraph (A) of this para-
52 graph shall not be included when calculating the permissible aggregate
53 value of equity interests pursuant to this section.

54 § 4. This act shall take effect immediately.